IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/02/2003

CORAM

THE HONOURABLE MR.JUSTICE M.KARPAGAVINAYAGAM
AND
THE HONOURABLE MR.JUSTICE A.K.RAJAN

Criminal Appeal No.877 of 1999

Rangasamy @ Ponnan ... Appellant

-Vs-

State by Inspector of Police
Sevoor Police Station
Crime No.156/97
Coimbatore District. ... Respondent

Appeal against the judgment dated 10.2.1999 made in S.C.No.84 of 199 8
on the file of the learned Principal Sessions Judge, Coimbatore.

!For Appellant : Mr.B.Kumarasamy
For Mr.K.Ravikumar

^For Respondent : Mr.E.Raja
Additional Public Prosecutor

:J U D G M E N T

(Judgment of the Court was delivered by A.K.RAJAN, J.)

The accused in S.C.No.84 of 1998 on the file of the Principal Sessions Judge, Coimbatore is the appellant. He was tried before the learned Sessions Judge on a charge of murder. The allegation against the accused is that at 11.00 a.m.,on 4.4.1997, he inflicted indiscriminate cuts on his wife Angathal and that on account of the injuries suffered, the said Angathal died. He was sentenced to imprisonment for life.

2. According to the prosecution, on the date of incident, when the accused and the deceased were in their field at Mudalipalayam village, P.W.2, Rangasami, the father of the deceased, P.W.5, Kandasamy, the brother of the deceased and Lakshmi, the mother of the deceased were also there in the field. The accused took the deceased inside the garden house and threatened her to remove her jacket. When she removed the jacket, the accused stabbed her indiscriminately with a knife on her chest, as a result of which

she fell down. Even thereafter, the accused continued to stab her on various parts of the body. P.W.2, P.W.5 and the mother of the deceased saw the occurrence, but they could not do anything since the accused threatened them of dire consequences if they intervene. Thereafter, the accused went to P.W.1, the Village Administrative Officer at about 2.00 p.m., and gave a confession statement to him narrating the incident. The confession statement was reduced into writing by P.W.1. Thereafter, P.W.1 went to the scene of occurrence along with his menial and found the body of the deceased Angathal. P.W.1 went to Sevoor Police Station, where P.W.9, the head constable was present. He handed over the complaint to P.W.9 at 3.00 p.m. He also handed over the accused along with M.O.1, the blood stained knife and M.O.2, the blood stained shirt of the accused, which were seized by P.W.9 under Ex.P.2. Thereafter, a case was registered in Crime No.156 of 1997 under Section 302 I.P.C. He sent the express first information report to the Magistrate as well as to the superior officials. Thereafter, at 4.00 p.m., P.W.10, the investigating officer reached the scene of occurrence and prepared Ex.P.3 and rough sketch, Ex.P.14. He recovered M.O.3, blood stained cement plaster and M.O.4, sample cement plaster under Ex.P.4. He also made arrangements to take photographs at the scene of occurrence. He conducted inquest over the body of deceased and examined the witnesses. After completing the inquest, the body was sent for post mortem.

3. P.W.6, the doctor conducted post mortem on the body of the deceased on 5.4.1997. He found about 30 injuries all over the chest and abdomen. He also found that the lungs and heart were punctured. He issued Ex.P.8, the post mortem certificate with his opinion that the deceased would have died due to stab injuries to vital organs 20 to 30 hours prior to autopsy. He also opined that the injuries found on the deceased could have been caused with a weapon like M.O.1 and that the death would have occurred immediately after sustaining injuries. P.W.10 arrested the accused on 4.4.1998 and sent him to judicial custody. Thereafter, P.W.11, the Inspector of Police took up investigation and filed the charge sheet. To prove the charge against the accused, the prosecution examined 10 witnesses and marked Exs.P.1 to P.15 and M.Os.1 to 8.

4. On considering the evidence on record, both oral and documentary, the Sessions Court found the charge against the accused proved and therefore convicted him and imposed a sentence of imprisonment for life. Aggrieved by the conviction and sentence, the accused has preferred this appeal.

5. Learned counsel Mr.B.Kumarasamy submitted that the evidence of the prosecution is not acceptable. He contended that Ex.P.1 could not have come into existence in the manner spoken to by P.W.1. Further, if really P.Ws.2,5, the mother of the deceased and the sister of the deceased were eye witnesses to the occurrence, then the accused would not have caused so many injuries on the deceased and they would have definitely prevented the occurrence. According to P.W.1, he came to the scene of occurrence along with the Inspector of Police. But, P.W.9, the Sub Inspector of Police states that the Inspector of Police came to the police station only at 8.30 p.m on 4.4.1997 and, therefore, the evidence of P.W.1 cannot be relied upon. He

further contended that Ex.P.1 as well as the evidence of P.W.1 has to be excluded as no reliance can be placed on them. Further, since the presence of P. Ws.2 and 5 is not acceptable and cannot be true, their evidence also must be disbelieved and therefore, there is no material to hold that it is the accused who committed the murder and hence he is entitled for acquittal. Alternatively, the learned counsel for the appellant contended that the accused has committed the offence due to sudden and grave provocation due to the refusal of the deceased to discontinue her illegal intimacy with P.W.3, and, therefore, the offence may at the most fall under a lesser offence and not under Section 302 I.P.C.,

6. We heard the learned Additional Public Prosecutor on all these points. On a perusal of the evidence on record and after giving our careful consideration to the rival contentions and arguments advanced by the learned counsel for the appellant and the learned Additional Public Prosecutor, we are unable to accept the arguments advanced by the learned counsel for the appellant for the following reasons.

7. Ex.P.1 is the earliest document. According to the prosecution, it was given to P.W.1 in his office at 2'O clock p.m. on 4.4.1997. In that, the accused has stated that P.W.3 arranged the marriage of the accused and the deceased Angathal, but the deceased had intimacy with P.W.3 even prior to their marriage. He had seen that number of times. Inspite of his advice, the deceased did not change her attitude. P.W.3 is running a finance business at Sevoor. Since the deceased did not mend her ways inspite of repeated advice and instead replied that they would continue to be like that, the accused got vexed; he went to Palani and took a vow that he would kill his wife and only thereafter he would shave his head as well as beard. Thereafter, on the date of occurrence, he had committed the offence in the presence of the father, mother, brother and sister of the deceased. A reading of Ex.P.1 would reveals that it is the statement voluntarily given by the accused. That apart, M.O.1 has been handed over by the accused to P.W.1. The doctor who conducted the post-mortem also has stated that M.O.1 could have caused the injuries found on the deceased. M.O.1, the knife and M.O.2, the shirt were found to be blood stained and on chemical examination, it contained human blood. Therefore, there can be no doubt that it is the accused who has caused the injuries on the deceased with M.O.1 and due to the injuries caused by the accused, the deceased died. Therefore, this itself is sufficient to hold that the accused had committed the offence. That apart, P.Ws.2 and 5 have deposed that they have seen the occurrence and it is the accused, who caused the injuries. The way in which P.Ws.2 and 5 have given evidence does not give any room for rejecting their evidence. Merely because they are relatives of the deceased, their evidence cannot be rejected; it has to be carefully considered. When the same is considered with utmost care, we are of the view that the evidence of P.Ws.2 and 5 are true and acceptable. There is no reason to reject their evidence. It is due to the illegal intimacy between the deceased and P.W.3, the accused had nurtured a feeling and he was determined to kill his wife since she did not mend her ways inspite of his repeated advice. The doctor has found more than 30 injuries on the body of the deceased and all the injuries, as already stated, could have been caused by M.O.1. The injuries ruptured the liver, heart and also lungs and the death

was instantaneous. Though Ex.P.1 does not mention that the injured was dead, when P.W.1 came to the scene after recording the confession, he found the injured dead. Therefore, the evidence adduced by the prosecution proves beyond all reasonable doubts that it is the accused who has caused the injuries, which resulted in the death of the deceased.

8. Learned counsel contended that it is due to grave and sudden provocation that the accused has committed the offence. This argument is to be stated only to be rejected. The very fact that he took up a vow in the Palani temple to kill his wife and further even on the date of incident, he directed the deceased to remove her jacket and thereafter caused the stab injuries numbering 30, does not come within the meaning of grave and sudden provocation. Therefore, the argument of the learned counsel for the appellant is not acceptable and hence the offence committed by the accused will squarely fall under Section 302 I.P.C., and the trial court has rightly convicted the accused under Section 302 I.P.C., and there is no reason to alter the findings of the trial Court. The conviction and sentence is confirmed and the appeal is dismissed.

Index : Yes
Internet : Yes
KST.

To:

1.The Principal Sessions Judge, Coimbatore.
2.The Superintendent, Central Prison, Coimbatore
3.The Public Prosecutor, High Court, Madras.
4.The Inspector of Police, Sevoor Police Station, Coimbatore District.
5.The District Collector, Coimbatore.
6.The Director General of Police, Chennai.